

JUN 15 2012

BOARD OF  
HEALING ARTS

**SETTLEMENT AGREEMENT BETWEEN THE MISSOURI  
STATE BOARD OF REGISTRATION FOR THE HEALING ARTS  
AND MICHELLE ZGAYNOR, PT**

Come now Michelle Zgaynor, P.T. (hereinafter "Licensee"), and the State Board of Registration for the Healing Arts (hereinafter the "Board") and enter into this agreement for the purpose of resolving the question of whether Michelle Zgaynor's license as a physical therapist will be subject to discipline. Licensee and the Board jointly stipulate and agree that a final disposition of this matter may be effectuated as described below pursuant to § 621.045, RSMo<sup>1</sup>.

1. Licensee acknowledges that she understands the various rights and privileges afforded by law, including the right to a hearing of the charges against her; the right to appear and be represented by legal counsel; the right to have all charges against her proven upon the record by competent and substantial evidence; the right to cross-examine any witnesses appearing at the hearing against her; the right to present evidence on her own behalf; the right to a decision based upon the record by a fair and impartial administrative hearing commissioner concerning the charges pending against the Licensee; and subsequently, the right to a disciplinary hearing before the Board at which time evidence may be presented in mitigation of discipline. Having been advised of these rights provided to the Licensee by operation of law, the Licensee knowingly and voluntarily waives each and every

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<sup>1</sup> All statutory references are to the Revised Statutes of Missouri (2011) unless otherwise stated.

one of these rights and freely enters into this agreement and agrees to abide by the terms of this document as they pertain to her.

2. The Licensee acknowledges that she may, at the time this agreement is effective or within fifteen days thereafter, submit this agreement to the Administrative Hearing Commission for determination that the facts agreed to by the parties constitute grounds for discipline of the Licensee's license.

3. The Licensee acknowledges that she has been informed of her right to consult legal counsel in this matter.

4. The parties stipulate and agree that the order agreed to by the Board and the Licensee in Part III herein is based only on the agreement set out in Parts I and II herein. The Licensee understands that the Board may take further action against her based on facts or conduct not specifically mentioned in this document that are either now known to the Board or may be discovered.

5. The Licensee understands and agrees that the Missouri State Board of Registration for the Healing Arts will maintain this agreement as an open record of the Board as required by Chapters 324, 334, 610, and 621, RSMo, as amended and will report this agreement to the National Practitioner's Data Bank (NPDB), the Health Integrity and Protection Data Bank (HIPDB), and the Federation of State Board of Physical Therapy (FSBPT).

### **I. JOINT STIPULATION OF FACTS**

Based upon the foregoing, the Board and the Licensee herein jointly stipulate to the following:

6. The State Board of Registration for the Healing Arts is an agency of the State of Missouri created and established pursuant to §334.120, for the purpose of executing and enforcing the provisions of Chapter 334, RSMo.
7. The Licensee is licensed by the Board as a physical therapist, License Number 108147, which was first issued on April 10, 1996. Licensee's license is current, and was current and active at all times relevant herein.
8. Between June of 2009 and August of 2010, Licensee submitted 310 claims to MO HealthNet for one hour of one-on-one physical therapy services.
9. During these time periods, Licensee did not provide one hour of one-on-one time for each of these patients. An occupational therapist and a speech therapist were present and provided services intermittently during the time that was billed as one-on-one physical therapy.
10. Licensee ultimately paid \$10,967.76 in restitution to the MO HealthNet program. Licensee also paid fines and penalties.
11. The above constitutes cause to discipline Licensee's license pursuant to §334.613.2(4), (4)(a) and (13) RSMo (2011).

## **II. JOINT CONCLUSIONS OF LAW**

12. Cause exists to discipline Licensee's license pursuant to §334.613.2(4), (4)(a) and (13) RSMo which state:

(4) Misconduct, fraud, misrepresentation, dishonesty, unethical conduct, or unprofessional conduct in the performance of the functions or duties of a physical therapist or physical therapist assistant, including but not limited to the following:

(a) Obtaining or attempting to obtain any fee, charge, tuition, or other compensation by fraud, deception, or misrepresentation; willfully and continually overcharging or overtreating patients; or charging for sessions of physical therapy which did not occur unless the services were contracted for in advance, or for services which were not rendered or documented in the patient's records;

(13) Knowingly making, or causing to be made, or aiding, or abetting in the making of, a false statement in any document executed in connection with the practice of physical therapy

13. The Licensee's conduct, as established by the foregoing facts, falls within the intendments of §334.100.2 RSMo.

14. Cause exists for the Board to take disciplinary action against the Licensee's license under §334.100.2 RSMo.

### **III. JOINT AGREEMENT ON DISCIPLINE**

Based on the foregoing, the parties mutually agree and stipulate that the following shall constitute the disciplinary order entered by the Board in this matter under the authority of §621.110 RSMo 2000. This agreement, including the disciplinary order, will be effective immediately on the date entered and finalized by the Board. The following are the terms of the disciplinary order:

15. License number 108147, issued by the Board to the Licensee, is hereby PUBLICLY REPRIMANDED.

16. If the Licensee is licensed in other jurisdictions, then she shall notify, in writing, the physical therapy licensing authorities of those jurisdictions, within fifteen (15) days of the effective date of this settlement agreement, of the Licensee's disciplinary status in Missouri. The Licensee shall forward a copy of

this written notice to the Board contemporaneously with sending it to the relevant licensing authority. If the Licensee is not licensed in other jurisdictions, she shall notify the Board of that fact in writing within fifteen (15) days of the effective date of this settlement agreement.

17. The Licensee shall notify, within fifteen (15) days of the effective date of this agreement, all employers, hospitals, nursing homes, out-patient centers, clinics, and all other facilities where the Licensee practices or has privileges, of her disciplinary status. The Licensee shall notify any physical therapy assistants professionals she supervises during the disciplinary period of the disciplinary action imposed. Notification shall be in writing and the Licensee shall, contemporaneously with the giving of such notice, submit a copy of the notice to the Board for verification by the Board or its designated representative. If the Licensee does not have an employer, does not have privileges or does not practice at any facility, she shall notify the Board of that fact in writing within fifteen (15) days of the effective date of this settlement agreement.

18. For purposes of this agreement, unless otherwise specified in this agreement, all reports, documentation, evaluations, notices, or other materials required to be submitted to the Board in this Order shall be forwarded to The State Board of Registration for the Healing Arts, Attention: Investigations, P.O. Box 4, Jefferson City, Missouri 65102.

19. This agreement does not bind the Board or restrict the remedies available to it concerning any other violation of Chapter 334, RSMo, by the Licensee not

specifically mentioned in this document that are currently either known or unknown to the Board.

20. Licensee hereby waives and releases the Board, its members, and any of its employees, agents, or attorneys, including any former Board members, employees, agents, and attorneys, of, or from, any liability, claim, actions, causes of action, fees, costs and expenses, and compensation, including, but not limited to any claims for attorneys fees and expenses, including any claims pursuant to §536.087, RSMo, or any claim arising under 42 USC 1983, which may be based upon, arise out of, or relate to any of the matters raised in this agreement, or from the negotiation or execution of this agreement. The parties acknowledge that this paragraph is severable from the remaining portions of this agreement in that it survives in perpetuity even in the event that any court of law deems this agreement or any portion thereof void or unenforceable.

LICENSEE

BOARD

Michelle Zgaynor, PT 06-12-12  
Michelle Zgaynor, PT Date

Tina Steinman 6/15/12  
Tina Steinman Date  
Executive Director

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Attorney for Licensee Date  
Missouri Bar No. \_\_\_\_\_

Sarah Schappe 6/15/2012  
Sarah Schappe Date  
General Counsel, MO Bar No. 52011

EFFECTIVE THIS 15 DAY OF June, 2012.